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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,571	01/22/2002	Adriano Huber	217924US2PCT	6394

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER
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SZYMANSKI, THOMAS M

ART UNIT	PAPER NUMBER
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2134

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/031,571

Applicant(s)

HUBER, ADRIANO

Examiner

Thomas Szymanski

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 9-35 have been examined

#### ***Claim Rejections - 35 USC § 101***

2. Claims 20, 25, 30, and 35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The applicant has stated "A tangible element holding a computer program", the scope of such language covers embodiments of tangible elements which are not machine readable and thus non-statutory. In order for such a recitation to be statutory it must be a machine or computer readable tangible element that causes the system to perform the described process.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 9-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Lambert et al U.S. Patent No. 6,470,447 (hereinafter "Lambert").
5. Regarding Claims 9, 17, 19, and 20: Receiving a plurality of different situation indicating parameters in a mobile communication terminal (Fig 2, Col 2 lines 43-58, Col 3 lines 20-30, 48-58, Col 4 lines 3-67, Col 5 lines 1-13, 39-50, Col 6 lines 47-Col 7 line 67, Col 9 line 25-67) Lambert provides for setting the level of security dependent on the application in use and the current location of the device.

Art Unit: 2134

Situation indicating parameters including designation of cryptographic algorithm and one of a length of cryptographic keys (Col 2 lines 35-59, Col 3 lines 47-54, Col 5 lines 39-50, Col 6 lines 30-36, Col 10 lines 15-20) Lambert provides for dynamically changing the algorithm and key length depending on the current situation.

Setting a degree of security based on said parameters (Col 2 lines 35-59, Col 5 lines 39-50, Col 7 lines 22-28, Col 10 lines 15-20) The system sets the security based upon the ascertained region to the necessary degree as provided for by the system.

Degree of security determining module includes tables or corresponding program instructions (Col 6 line 45 - Col 7 line 67, Col 8 lines 50-67, Col 9 lines 25-67)

6. Regarding Claim 10: Situation indicating parameters contain service specific data sent via a service server (Fig 2, Col 1 line 29 – Col 2 line 43, Col 2 line 65 – Col 3 line 67, Col 4 lines 44-67, Col 5 lines 30-50, Col 6 lines 12-42, Col 7 lines 14-18, 50- Col 8 line 47, Col 9 lines 1-67)

7. Regarding Claims 11 and 13: certain situation indicating parameters contain data about a permissible degree of security or permissible security parameters transmitted in a secure manner over the network (Col 2 lines 35-59, Col 5 lines 39-50, Col 7 lines 22-28, Col 10 lines 15-20) As stated the parameters denote the degree of security for a specified region.

8. Regarding Claims 12, 14, 15, and 16: Mobile communication device roaming in a mobile radio network (Col 1 lines 28-67, Col 5 lines 29-50, Col 7 lines 31-44) As defined a radio is a device for transmitting and/or receiving radio signals. The system

Art Unit: 2134

provides for mobile cellular telephones that utilize radio signals as a communications means in a mobile radio network.

At least on situation indicating parameter contains a country code (Col 2 line 34-Col 4 line 15) The parameters are an indication of the geopolitical region as stated.

9. Regarding Claim 18: Chip-card that is removable (Col 1 lines 28-67, Col 5 lines 29-50, Col 7 lines 31-44) The system provides for the use of a range of devices including PDAs and laptops that contain such devices.

10. Regarding Claims 21-30: Parameters determine a height of the degree of security of the cryptography functions for specific services including at least one of an e-mail service, file-transfer service, a financial service, and a database application service (Fig 2, Col 1 line 29 – Col 2 line 43, Col 2 line 65 – Col 3 line 67, Col 4 lines 44-67, Col 5 lines 30-50, Col 6 lines 12-42, Col 7 line 14-Col 8 line 47, Col 9 lines 1-67) The devices disclosed and the applications that are stated as determining the level of cryptographic functions include the scope of the services listed.

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 9-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of art

Art Unit: 2134

disclosed by the references cited and the objections made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Szymanski whose telephone number is 571-272-8574. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on 571-272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TMS

*Jacques Louis-Jacques*  
JACQUES H. LOUIS-JACQUES  
PRIMARY EXAMINER